

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**UNITED STATES OF AMERICA,
Plaintiff**

vs.

**LUIS A. CASTRO-MORALES,
Defendant**

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Cr. No. 97-84-003 (PG)

**SUPPLEMENTAL MOTION NOTIFYING DRUG TESTING RESULTS, REQUESTING
A WITHDRAWAL OF ORDER TO SHOW CAUSE HEARING AND FOR SOME
DISPOSITION REGARDING RESTITUTION PAYMENT.**

**TO THE HONORABLE JUAN M. PEREZ-GIMENEZ
UNITED STATES DISTRICT JUDGE
DISTRICT OF PUERTO RICO**

COMES NOW, HUMBERTO MARCHAND, U.S. PROBATION OFFICER of this Court, presenting an official report on the conduct and attitude of the releasee, Luis A. Castro-Morales, who on January 22, 1999, was sentenced to forty-six (46) months of imprisonment and three years of supervised release for committing embezzlement as an employee of the U.S Department of Veteran Affairs. His term of supervised release was due to expire this past December 6, 2004. However, on December 2, 2004, the Honorable Magistrate-Judge Gustavo A. Gelpí ordered the issuance of a summons and tolling of the supervision term pursuant to a petition from our office notifying the Court of possible drug testing evasion and illegal drug use violations. A summons was issued on that same date for Mr. Castro to appear before the Court today at 3:00 pm.

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**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR
CAUSE AS FOLLOWS:**

1) Drug Testing Results:

On December 7, we received the laboratory results from the presumptive positive to Amphetamine obtained from drug testing conducted on December 1, 2004. The same was received negative for all drugs tested, except for marihuana which was received as "quantity not sufficient for THC testing."

In addition, the motion filed on December 2, 2004, indicated that the offender failed to report on that date as required. It was later verified that the offender appeared for drug testing and the same was negative. Another drug test conducted this Monday, December 6, 2004 was also negative.

2) Restitution:

As a special condition of his supervised release, Mr. Castro was ordered to make a partial restitution to the U.S. Government in the amount of \$66,666.06. On May 5, 2003, the Court granted a request for approval of a payment plan established in the amount of \$20 monthly based on his ability to pay at the moment. This payment plan was also notified to the Financial Litigation Unit of the U.S. Attorney's Office. Since the offender's financial condition has remained more or less the same, this payment plan has continued throughout his supervision term. Therefore, Mr. Castro will be unable to satisfy the remaining restitution balance prior to his expiration date.

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WHEREFORE, in lieu of the aforementioned, we respectfully withdraw our petition for an order to show cause hearing, and the order for a tolling of the supervision term be dismissed, and that Mr. Castro-Morales' supervision be allowed to expire as scheduled. As to the restitution balance, we recommend that he continue to submit the restitution payments directly to the U.S. Clerk's Office after expiration of his supervised release term. The supervisee has been notified that the government has twenty (20) years to collect the restitution imposed since the entry of the judgement.

In San Juan, Puerto Rico, this 8th day of December 2004

Respectfully submitted,

EUSTAQUIO BABILONIA, CHIEF
U.S. PROBATION OFFICER

s/Humberto Marchand
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HM/mgm

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 8, 2004, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Assistant U.S. Attorney Timothy Henwood, and Defense Counsel, Roberto Millán.

s/Humberto Marchand
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